



U.S. Department of Justice

*United States Attorney
District of Massachusetts*

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May 28, 2004

Elliot Weinstein
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Tracey Miner
Jessica Lowney
Mintz, Levin et al
One Financial Center
Boston, MA 02111

John R. Valerio
10 Main St. Suite L-9
Andover, MA 01810

Re: United States v. Figueroa et al
Criminal No. 04-10053-RCL

Dear Counsel:

I am in receipt of your letter of May 18, 2004 requesting additional discovery in the above-captioned matter. Your letter is an abuse of the process envisioned by the Local Rules as it ignores the information produced to date, ignores the provisions of the Local Rules that specify the time periods within which the government must produce certain information and ignores the government's automatic discovery letter. The government therefore objects to the letter in its entirety. Without waiving that objection, the government further responds as follows.

1. All memoranda pertaining to the recording of conversations involving the transactions set forth in the indictment or otherwise involving the defendants in this case have been produced. All agents working on this case have been advised of their obligation to retain notes. Any and all notes prepared in connection with the transactions described in the indictment in this case will be reviewed for purposes of

determining if they contain any Brady information.

2. All books, papers, documents and tangible items that the are within the possession, custody, and control of the government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial of this matter, or were obtained from or belong to the defendant may be examined by contacting the undersigned Assistant United States Attorney and making an appointment to view the same at a mutually convenient time.

3. All Brady information that the government is presently aware of has been produced. Any additional Brady information will be produced upon receipt. The government otherwise objects to this request.

4. Without stating that any such documents exist, the government objects to producing this information.

5. The government objects to producing this information at this time. Any additional discoverable information regarding trial witnesses will be provided 21 days before trial in accordance with the Local Rules.

6. All agents working on this case have been advised of their obligation to retain notes. Any and all notes prepared in connection with the transactions described in the indictment in this case will be reviewed for purposes of determining if they contain any Brady information. The government objects to producing this information. The government does not believe that any notes have been destroyed.

7. See responses to all other request.

8. The government objects to producing this information. Police witnesses may have given testimony in hundreds of cases. Any additional discoverable information regarding cooperating witnesses will be provided 21 days before trial in accordance with the Local Rules.

9-11. The government objects to producing this information at this time. Any additional discoverable information regarding trial witnesses will be provided 21 days before trial in accordance with the Local Rules.

12. The government objects to producing this information as it is not in its possession, custody, or control. Any additional discoverable information regarding trial witnesses

that is within the government's possession, custody, or control will be provided 21 days before trial in accordance with the Local Rules.

13-20. The government objects to producing this information at this time. Any additional discoverable information regarding trial witnesses will be provided 21 days before trial in accordance with the Local Rules.

21-34. The government declines to identify CW-2 or CW-3 or provide other requested information regarding these witnesses at this time for the reasons specified in its automatic discovery letter. The government has already provided promise, reward, and inducement information and criminal history information as required by the Local Rules. Any additional discoverable information regarding cooperating witnesses will be provided 21 days before trial in accordance with the Local rules. The government has produced all reports regarding the transactions described in the indictment.

35. Chain of custody information is detailed in the documents previously produced. If you have any specific questions in addition to the information specified therein, please advise and I will review those questions.

36. Other than as previously produced, the government is unaware of any such correspondence.

37. The government is unaware of any evidence that has been lost or destroyed.

If you have any questions about the government's position or wish to discuss this case with me, please call me at (617) 748-3207.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By: /s John A. Wortmann, Jr.
JOHN A. WORTMANN, JR.
Assistant U.S. Attorney

CC: Tom Quinn
Courtroom Clerk to Mag. Judge Judith Dein

